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In the Supreme Court of the United States

OCTOBER TERM, 1991

UNITED STATES DEPARTMENT OF STATE, PETITIONER

v.

MICHAEL D. RAY, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

REPLY BRIEF FOR THE PETITIONER

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This Court's decisions have articulated a "workable formula which encompasses, balances, and protects" the interest in personal privacy as well as the public interest in "the fullest responsible disclosure" of government records (*EPA* v. *Mink*, 410 U.S. 73, 80 (1973) (quoting S. Rep. No. 813, 89th Cong., 1st Sess. 3 (1965)). That "workable formula" does not require, as respondents would suggest, that the interest in personal privacy be overborne whenever a party contends that possession of the requested information might lead to further, derivative non-governmental inquiries that – depending upon the vigor, motivation and result of those inquiries – might ultimately shed some light on governmental activities. Such a remote and tenuous rationale for overriding privacy interests finds no support in this Court's decisions.

Instead, this Court has made clear that private information that itself sheds no light upon the conduct of government is exempt from disclosure under the FOIA. While there is a public interest in the disclosure of information that directly reveals the government's conduct of its affairs, the deletion of personal identification information is "unquestionably appropriate because the names of the particular" persons involved are "irrelevant to the inquiry into the way the" government administers its responsibilities. *United States Department of Justice* v. *Reporters Committee for Freedom of the Press*, 489 U.S. 749, 773 (1989). In thus reconciling the competing interests of disclosure and personal privacy, the Court has emphasized that "disclosure of records regarding private citizens, identifiable by name, is not what the framers of the FOIA had in mind." *Id.* at 765.

Respondents seek to ignore this Court's admonition by contending (i) that the information requested in this case does not involve a "substantial" invasion of personal privacy (Resp. Br. 21) and (ii) that respondents' interest in making use of this information outweighs the privacy interests of the persons who have provided information to the government under assurances of confidentiality (Resp. Br. 21-36). These contentions are not substantial.

The court of appeals specifically acknowledged that there are "significant privacy interests at stake" in this case (Pet. App. 8a). The privacy interests of the Haitian interviewees—who attempted illegal migration to the United States, who agreed to be interviewed under assurances of confidentiality from the State Department, and who described the treatment they had received from their own government as well as their personal, family and economic conditions—

cannot cavalierly be tossed aside as "not significant," as respondents and *amici* would do.[1]

Moreover, as the court of appeals noted, "the disclosure of the Haitians' names and addresses, in and of itself, [would] not tell [respondents] anything about Haiti's treatment of its returnees or the U.S. government's honesty about the matter" (Pet. App. 9a). Conceding, as they must, that the requested information has no direct relevance to an understanding of the government's actions, respondents argue only that their proposed derivative use of this personal information might "help" shed light on the government's activities (Resp. Br. 30). But even if some weight were given to respondents' proposed research plans, the public interest in such a disclosure would be extremely attenuated and speculative. In articulating a "workable formula" for balancing interests under the FOIA, this Court has held that the question "whether an invasion of privacy is *warranted* cannot turn on the purposes for which the request for information is made." *Reporters Committee*, 489 U.S. at 771. When "information about private citizens that is accumulated in various government files • • • reveals little or nothing about an agency's own conduct" (*id.* at 773), the Court has concluded that the deletion of personal identification information is "unquestionably appropriate" (*ibid.*).

I. THE HAITIAN INTERVIEWEES HAVE A SUBSTANTIAL PRIVACY INTEREST IN AVOIDING THE DISCLOSURE SOUGHT BY RESPONDENTS

1. The identification of individuals in a specific factual context in government files constitutes an invasion of personal privacy in every instance. The degree of that invasion will, of course, vary according to its context. The in-

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[1] See American Civil Liberties Union Amici Br. 9; Lawyers Comm. for Human Rights Amici Br. 9.

vasion may subject the individual to possible loss of liberty or safety. *Department of State* v. *Washington Post Co.*, 456 U.S. 595 (1982). In other instances, the degree of interference with privacy interests may appear to be relatively slight. See *National Ass'n of Retired Federal Employees* v. *Horner*, 879 F.2d 873 (D.C. Cir. 1989) (identifying the individual as a financially secure retiree), cert. denied, 494 U.S. 1078 (1990).[2] But all of these disclosures implicate the significant personal privacy interest in maintaining "the individual's control of information concerning his or her person." *Reporters Committee*, 489 U.S. at 763.

Respondents and their amici, however, dispute that any genuine privacy interests are presented in this case. See note 1, *supra*. In their view, the State Department seeks to protect only "weak privacy concerns" (Lawyers Comm. for Human Rights Amici Br. 12). But the release of the personal identification information in this case would cause a far more extensive invasion of personal privacy than has been involved in other situations where refusal to disclose has been upheld. See *National Ass'n of Retired Federal Employees* v. *Horner*, 879 F.2d at 878 (identification would invite commercial or charitable solicitations); Pet. Br. 27-28. The interview reports in this case identify the individuals as Haitians who attempted to enter the United States illegally, were returned to Haiti, and voluntarily agreed to be

[2] Such untroubling appearances may often be misleading. For example, the identification of an individual as a user of federal recreation facilities (*Minnis* v. *Department of Agriculture*, 737 F.2d 784 (9th Cir. 1984), cert. denied, 471 U.S. 1053 (1985)) could be sought by those with adverse interests to verify or contradict an individual's purported whereabouts. While some persons licensed to produce relatively small amounts of wine for home use (*Wine Hobby USA, Inc.* v. *IRS*, 502 F.2d 133 (3d Cir. 1974)) might not mind receiving mail order catalogs for wine-making equipment, for others the public disclosure of their hobby could be a source of personal embarrassment.

interviewed by United States officials about the conduct of the Haitian government. Pet. Br. 28-29. These reports typically provide information concerning employment, family status and living conditions. *Id.* at 29-30.[3] The interviewees were promised confidentiality by the United States as an inducement for their cooperation. *Id.* at 31-33. Notwithstanding this, respondents have announced their intention to use the requested disclosure of this confidential information to track down and interrogate the interviewees. *Id.* at 30. Upon consideration of these factors, even the court below recognized "that there are significant privacy interests at stake here" (Pet. App. 8a).

2. Respondents contend (Resp. Br. 29) that the interviews were not shown to be confidential in nature. The State Department, however, provided the district court with three sworn statements concerning the conditions of confidentiality under which the interviews were conducted. Based upon review of the documents, personal knowledge, professional judgment, and information made available to him in the course of his official duties, Acting Deputy Director

[3] The failure to redact identifying information would quite obviously infringe "the individual interest in avoiding disclosure of personal matters" (*Reporters Committee*, 489 U.S. at 762). In our initial brief (Pet. Br. 30), we stated that we were not aware of any case where "such personal information [has] been ordered disclosed." Respondents and *amici* cite none. Respondents, however, blatantly misrepresent our statement by converting it into a contention that no court has ever ordered the disclosure of names and addresses (Resp. Br. 25). We have not claimed that the disclosure of names and addresses has *never* been allowed. We do claim, however, that no court has ordered disclosure of information of the highly personal nature involved in this case.

Relying on hearsay in an editorial in a local newspaper, respondents contend (Resp. Br. 23) that, at the early stages of this case, the INS District Director offered to disclose the identities of the Haitian interviewees. Respondents fail to mention, however, that the District Director denied having made such a statement (J.A. 31).

of the Office of Mandatory Review John Eaves stated that "those who were interviewed consented to the procedures with the understanding that their conversations with Embassy officers would be conducted under conditions of privacy and confidentiality." J.A. 40-43. Deputy Assistant Secretary Richard H. Melton, whose duties included responsibility for the conduct of the State Department's policies and operations in Haiti, stated the interviews were conducted on the "understanding that [the interviewees'] identities would be kept confidential." J.A. 53-54, 56. Pratt Byrd, successor to John Eaves, again confirmed "the interviews were conducted on the understanding * * * that the interviewees would not be publicly identified." J.A. 62.

Despite this unambiguous, unrebutted evidence—which respondents disparagingly but erroneously characterize as a "slim evidentiary showing" (Resp. Br. 29)—respondents contend that the confidential nature of the interviews should be ignored because the interview reports do not themselves contain references to a promise of confidentiality (*id.* at 29-30).[4] This argument is both incorrect and illogical. It is illogical because the interview reports do not purport to be verbatim transcripts, and there is no reason to expect that the individual summary reports would make express reference to general proffers of confidentiality. Such references can, however, be found in the reports. One person, who was in hiding in Haiti, was interviewed only after he was "reassured that [the State Department official] was only interested in talking to him for a few minutes about his return to Haiti and would not be sharing the information with any Haitian officials."[5] Pet. Lodging 4.[6] Other reports demonstrate that interviews were conducted in an atmosphere of fear and mistrust and that many of the interviewees deliberately gave false or nonexistent addresses. *Id.* at 1, 3, 7. The documents provide numerous indications of the need for the assurances of confidentiality described in the sworn statements by State Department officials.[7] On this unrebutted and uncontradicted record, both the district court (Pet. App. 28a) and the court of appeals (*id.* at 7a) correctly concluded that the State Department had indeed promised not to reveal the Haitians' identities. There is no basis to disturb these findings of fact concurred in by the two lower courts. See *Tiffany Fine Arts, Inc.* v. *United States*, 469 U.S. 310, 317-318 n.5 (1985); *Rogers* v. *Lodge*, 458 U.S. 613, 623 (1982).

This is not a case where a court could have reason to question the necessity or appropriateness of the government's promises of confidentiality. The inherently sensitive nature of the State Department's efforts to monitor human rights practices in Haiti provides undeniable justification for conducting these interviews in confidence. The Department requested Haitian nationals to speak frankly about possible mistreatment they received at the hands of their own gov-

[4] Respondents also refer to "supposed[ ]" or "alleged" interviews conducted by the State Department (Resp. Br. i, 3), conveying their apparent view that the State Department's entire showing is a massive, contrived hoax. Needless to say, there is nothing to support respondents' wildly skeptical views.

[5] Because the FOIA requires the agency to "make the records promptly available to *any person*," 5 U.S.C. 552(a)(3) (emphasis added), if respondents were entitled to receive the name of this interviewee, a representative of the Haitian government would also be able to obtain this information.

[6] Copies of certain of the interview reports that are in the record of this case, but which could not practicably be reproduced in the Joint Appendix, have been lodged with the Court.

[7] Some of the interviewees had been confronted by moneylenders who had financed their unsuccessful voyage. C.A. Doc. 36, Attachment at 62. A number of the interviewees had relatives or close friends living illegally in the United States. *Id.* at 70. One of the migrants had been jailed as a trip organizer. *Id.* at 69.

ernment in a setting where the United States had no power or direct authority to protect them. Even the *amici* who support respondents in this case have elsewhere urged that Haitians who attempt illegal migration into the United States "should be advised on an individual basis of the confidential nature of the interviews" and have observed that a "[l]ack of privacy and confidentiality can have grave consequences." Lawyers Comm. for Human Rights, *Refugee Refoulement: The Forced Return of Haitians Under the U.S.-Haitian Interdiction Agreement* 13, 35 (1990).[8] We agree: it is beyond fair dispute that potentially "grave consequences" could accompany disclosure of the redacted identities of these interviewees.[9] *Id.* at 35.

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[8] By strange contrast, the Lawyers Committee has contended in their brief in this case (Amici Br. 9) that "no material privacy interests are at stake" in this case.

The United Nations has also recognized the need for confidentiality in the context of political asylum applications. "In creating such a climate of confidence it is, of course, of the utmost importance that the applicant's statements will be treated as confidential and that he be so informed." Office of the U.N. High Commissioner for Refugees, *Handbook of Procedures and Criteria for Determining Refugee Status* 48 (Geneva, 1979). Recently adopted INS regulations also require that any interviews or other information collected pertaining to asylum applications be held in confidence. See 8 C.F.R. 208.6.

[9] Amici ACLU (Br. 10) and Lawyers Committee (Br. 12) cite *Critical Mass Energy Project* v. *NRC*, 931 F.2d 939 (D.C. Cir., 1991) (petition for rehearing and suggestion for rehearing *en banc* filed June 14, 1991), for the proposition that the government should be required to prove that it was *necessary* for the State Department to offer confidentiality in order to obtain the information. *Critical Mass* involved a dispute under FOIA Exemption 4, 5 U.S.C. 552(b)(4) ("commercial * * * information obtained from a person and * * * confidential"). The proper scope of commercial confidentiality has no bearing on the scope of the personal privacy interests protected under FOIA Exemption 6. In any

Respondents' persistent, though unsupported, attack upon the State Department's showing that the information was obtained under conditions of confidentiality reflects the weighty privacy expectations that flow from such a promise. Confidentiality is at the very core of the privacy interests in "the individual's control of information concerning his * * * person" (*Reporters Committee*, 489 U.S. at 763) and "in keeping personal facts away from the public eye" (*id.* at 769).

Contrary to the suggestion of amici ACLU (Br. 10), the fact that friends or neighbors knew of some of the interviews does not diminish the justifiable privacy interests of the interviewees. See *Reporters Committee*, 489 U.S. at 762 (privacy exemption applicable even though the "events summarized in a rap sheet have been previously disclosed to the public"); *Department of State* v. *Washington Post Co.*, 456 U.S. at 602-603 n.5 (privacy exemption applicable to publicly available, but scattered, citizenship records). A confidential interview conducted in Haiti is a matter of far more practical obscurity than the fact of an arrest or conviction in the United States. Unlike the information contained in the rap sheets in *Reporters Committee*, the facts recited in the interview reports have never been made public in a way that

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event, the State Department has made a sufficient showing to establish the appropriateness of confidentiality in this case.

It is also worth noting that two of the three members of the *Critical Mass* panel concurred separately to note their view that the result and analysis in that case would be different under the "straightforward language" and "common sense meaning of exemption four." 931 F.2d at 947-948 (Randolph, J., concurring, joined by Williams, J.). The concurring judges joined their remaining colleague's opinion for the court because they viewed themselves as bound by prior circuit precedent which "fabricated, out of whole cloth" and with "no legitimate basis" (*ibid.*) the requirement for which amici cite *Critical Mass* and which amici would fabricate under Exemption 6 as well.

could identify the subjects.[10] The ACLU's contention that information "previously disclosed" can no longer be private represents a "cramped notion of personal privacy" (*Reporters Committee*, 489 U.S. at 763) that has been expressly rejected by this Court. *Id.* at 762; see also *id.* at 762 n.15.

3. Disclosure of the identities of the interviewees would effect an immediate, material invasion of their personal privacy. This Court has never suggested, as respondents mistakenly contend (Resp. Br. 22), that disclosure of the names of individuals in specific government records presents only a speculative or hypothetical harm to this interest in privacy. To the contrary, the Court has observed that "the consequences of exposure of identity can admittedly be severe." *Department of the Air Force* v. *Rose*, 425 U.S. 352, 381 (1976).[11] The deletion of the cadets' names and "other

[10] Moreover, unlike the persons whose names are shown on rap sheets, the Haitian interviewees had the right not to contribute any of the information being sought by the government. The privacy interests in this case are thus even more substantial than those in *Reporters Committee*.

[11] *Arieff* v. *Department of the Navy*, 712 F.2d 1462 (D.C. Cir. 1983), upon which respondents seek to rely (Resp. Br. 14, 17, 22 n.21, 26, 35), is inapposite. The requester in that case sought copies of "all records concerning releases of any prescription drugs" from the Office of Attending Physician to the United States Congress. 712 F.2d at 1465. Disclosure was resisted due to a concern that it would be possible to associate specific users with specific diseases. The court concluded that the feared identification in *Arieff*, where no names or other identifying descriptions were sought, raised only a "mere possibility" of identification. *Id.* at 1467. The *Arieff* court observed that speculation by the public about who might have ingested the drugs prescribed by the OAP was "*a secondary effect*" which was "not the sort of invasion of privacy that can support an Exemption 6 claim." *Id.* at 1468. In the present case, by contrast, respondents seek the *names* of the interviewees. No "secondary effect" or speculation would be necessary to establish identification if the names are themselves disclosed.

identifying information" from the honor code reports in *Rose* was necessary specifically "in order to safeguard this privacy interest." *Reporters Committee*, 489 U.S. at 769. See also *National Ass'n of Retired Federal Employees* v. *Horner*, 879 F.2d at 878.

II. THERE IS NO PUBLIC INTEREST IN DISCLOSURE TO WARRANT THE INVASIONS OF PERSONAL PRIVACY

In our initial brief (Pet. Br. 20-27), we asked the Court to reject the "derivative use" rationale that had been applied by the court of appeals. We pointed out that reliance upon a requester's proposed further research plans to establish a public interest in disclosure would provide a means in almost every FOIA case to circumvent the protection of privacy for individuals, would be inconsistent with the "workable formula" for the protection of privacy interests established by this Court in *Reporters Committee*, and would conflict with the Act's mandate that all FOIA requesters be treated equally. Respondents and their *amici* have not seriously refuted any of these arguments. We respond, however, to a few of their specific contentions.

1. In a relatively early FOIA decision, *Getman* v. *NLRB*, 450 F.2d 670, 677 n.24 (D.C. Cir. 1971), the court erroneously relied upon the requesters' motives and resources in ordering disclosure. The decisions collected by respondents (Resp. Br. 26-27 & n.28) follow *Getman*, or its logic. All but one of these decisions was issued before *Reporters Committee*. The single exception is currently on appeal. *Painting Industry of Hawaii Market Recovery Fund* v. *United States Dep't of the Air Force*, 751 F. Supp. 1410 (D. Haw. 1990), appeal pending, No. 90-16659 (9th Cir.). Following this Court's decision in *Reporters Committee*, however, public interest arguments that rely upon proposed derivative uses of private information have consistently

been rejected or discounted by the courts of appeals. See *National Ass'n of Retired Federal Employees* v. *Horner*, *supra*; *FLRA* v. *Department of the Treasury*, 884 F.2d 1446 (D.C. Cir. 1989), certs. denied, 493 U.S. 1055 (1990); *Hopkins* v. *HUD*, 929 F.2d 81 (2d Cir. 1991); *Painting & Drywall Work Preservation Fund, Inc.* v. *HUD*, No. 88-5076 (D.C. Cir. June 21, 1991).

2. Petitioner has not requested this Court to impose a "categorical anonymity rule" (Lawyers Comm. for Human Rights Amici Br. 7). It is conceivable that in some particular case there would be an intrinsic public interest in disclosure of the identity of a specific person, where the identification itself would "shed * * * light on the conduct of [a] Government agency or official" (*Reporters Committee*, 489 U.S. at 773). For example, while rejecting the request for disclosure of rap sheets in *Reporters Committee*, the Court indicated that a request for records relating to contracts between the government and a specific, named individual would be appropriate. *Id.* at 774. If such records included the names of public officials who influenced the contract process, there could be a direct public interest in disclosure of those identities.

But that rationale would not apply in this case. There is no claim here that the names of the Haitian interviewees would themselves shed any light on the government's conduct. Instead, respondents ask for disclosure of the identities of the interviewees for use as "leads" to "help" shed light on official conduct (Resp. Br. 30). Such a formulation, we submit, places the respondents' quest for disclosure well outside the bounds permitted by this Court. Because the names of the interviewees are themselves "irrelevant to the public's understanding of the Government's operation" (*Reporters Committee*, 489 U.S. at 766 n.18), the redaction of their names from the records produced by the

government is "unquestionably appropriate" in order to protect their privacy (*id.* at 773).

The loose and open-ended formulation proposed by respondents for the Exemption 6 balancing process would strip the judicial inquiry of any meaningful content. Even the least imaginative and resourceful requester could explain how the identities of welfare recipients might "help" lead to information on the efficiency or fairness of the welfare system, or how the identities of taxpayers could "help" lead to discovery of fraud or corruption. Congress clearly intended, however, that disclosures of such private information not be allowed. See S. Rep. No. 813, *supra*, at 7; H.R. Rep. No. 1497, 89th Cong., 2d Sess. 8 (1966).[12]

A test that focuses on whether information might, after further derivative research, "help" to shed light on government conduct would permit attenuated and speculative claims to override the privacy protections established in the FOIA.[13] It would provide no meaningful instruction to the

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[12] Lawrence Speiser, Director of the Washington Office of the American Civil Liberties Union, supported this restriction on the disclosure of private information in comments delivered at the House subcommittee hearings on the Act. See *Federal Public Records Law: Hearings on H.R. 5012 Before Subcomm. of the House Comm. on Government Operations*, 89th Cong., 1st Sess. 190 (1965). He stated that the ACLU's view (at that time) was that Exemption 6 should be interpreted to mean "that the individual directly involved would be able to obtain information concerning his case but other individuals could not." *Ibid.*

[13] If the disclosure sought by respondents were permitted, it would unquestionably have adverse repercussions on the ability of the United States to monitor and enforce human rights around the world. Once persons abroad learn that the United States cannot be relied on for the protection of confidential information, they would "close up like a clam." *CIA* v. *Sims*, 471 U.S. 159, 175 (1985). This impact, which is palpably *contrary* to the public interest, neutralizes any conceivable weight that might attach to respondents' proposed derivative use of the information.

agencies and the courts, depriving them of the "workable" rules that Congress intended. See *Reporters Committee*, 489 U.S. at 779; *FTC* v. *Grolier Inc.*, 462 U.S. 19, 27-28 (1983). See also *Harbolt* v. *Department of State*, 616 F.2d 772, 775 (5th Cir.), cert. denied, 449 U.S. 856 (1980). It would also suffer from the quite serious defect that it would allow disclosure to turn on the unique motivations and resources of the requester, contrary to this Court's specific admonition that "whether an invasion of privacy is *warranted* cannot turn on the purposes for which the request for information is made." *Reporters Committee*, 489 U.S. at 771; see also *FBI* v. *Abramson*, 456 U.S. 615 (1982); *NLRB* v. *Robbins Tire & Rubber Co.*, 437 U.S. 214, 221 (1978).[14] As one of the FOIA's major congressional advocates explained:

> Government information should be available to "any person" for a very good reason—it is the character of the information that determines its availability, not the character of the person requesting it.

Federal Public Records Law: Hearings on H.R. 5012 Before Subcomm. of the House Comm. on Government Operations, 89th Cong., 1st Sess. 174 (1965) (statement of Rep. Fascell).

3. The ACLU suggests (Br. 12) that the disclosure sought in this case could be said to satisfy the requirement of *Reporters Committee* that the names to be disclosed have a direct or intrinsic informational value concerning the

[14] Representatives of the former Haitian government, or the *tonton macoute* (its unofficial enforcers), could have made the same FOIA request as respondents. This could be done either overtly or under the contrived name of a public interest group (or an individual) claiming a desire to help the safe relocation of Haitians. There is no practical way to determine whether a requester actually harbors doubts regarding the accuracy of the State Department's interview reports or is actually motivated by some other personal or commercial interest. But this impractical search for individual motivations (or research objectives) as a justification for disclosure is the heart of the "derivative use" concept.

operation of the government on the theory that it would directly tell the public *who* the State Department had consulted about conditions in Haiti. This argument lacks even a superficial logic. Every government record that mentions individuals by name could be said to disclose who the government has obtained information from or about. But, like the names of the Air Force cadets that were withheld in *Rose*, this kind of personal information itself tells us nothing about the conduct of government.[15]

Respondents offer the more particularized claim that they would use the information they hope ultimately to derive from the disclosure of this private information in asylum proceedings (Resp. Br. 35). It is well established, however, that the particularized litigation desires of a FOIA requester cannot be a basis for disclosure. "The Act is fundamentally designed to inform the public about agency action and not to benefit private litigants." *NLRB* v. *Sears, Roebuck & Co.*, 421 U.S. 132, 143 n.10 (1975). Respondents' "rights under the Act are neither increased nor decreased" by their interest in any ongoing administrative or judicial proceedings. *Ibid.* See also *Renegotiation Board* v. *Bannercraft Clothing Co.*, 415 U.S. 1, 20 (1974).

4. Citing three dissenting opinions, amici ANPA et al. suggest that the Court should "acknowledge" the First Amendment "implications" of this case (Br. 14). There is, however, no First Amendment or other constitutional right of the press, or other members of the public, to Executive Branch information. *Houchins* v. *KQED, Inc.*, 438 U.S.

[15] The ACLU argument is ultimately a plea that *Reporters Committee* was wrongly decided. Indeed, the ACLU argues (Br. 14 n.4) that "the journalists [in *Reporters Committee*] failed to litigate the most relevant public interest—shedding light on the FBI's conduct regarding the maintenance of rap sheets." It cannot reasonably be urged at this point, however, that such contrived arguments would have altered the outcome of *Reporters Committee*.

1, 11 (1978). This is not to deny the vital importance of an informed citizenry to the functioning of our democratic society. The State Department has honored this public interest by releasing reports that provide extensive detail on the agency's activities and operations in Haiti. The only information that was redacted from these reports was the names of the interviewees who cooperated in assembling that very information under promises of confidentiality. In accordance with the FOIA's dictates, the agency's redaction of personal information from these reports was narrowly tailored to protect the "equally important" (S. Rep. No. 813, *supra*, at 3) statutory right of privacy from clearly unwarranted intrusion.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

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